

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-2038-PST-E **TCEQ ID:** RN102224474 **CASE NO.:** 35110
RESPONDENT NAME: Farmersville Texaco, Inc. dba Farmersville Shell

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Farmersville Shell, 304 United States Highway 380 East, Farmersville, Collin County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 12, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Mohammed Chowdhury, President, Farmersville Texaco, Inc., 304 United States Highway 380 East, Farmersville, Texas 75442 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 26, 2007</p> <p>Date of NOV/NOE Relating to this Case: November 27, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to maintain records at the Station ordinarily manned during business hours, and make them immediately available for review upon request. Specifically, the California Air Resource Board executive order, daily inspection log, Stage II test results, maintenance log, and employee training records were not available for inspection at the time of the investigation [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to conduct monthly inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. Specifically, operating instructions were not observed on dispenser Nos. 1, 2, 5, and 6 at the time of investigation [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,200</p> <p>Total Deferred: \$640 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$145 (remaining \$2,415 due in 23 monthly payments of \$105 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Began maintaining all Stage II records at the Station on December 11, 2007;</p> <p>b. Posted operation instructions on the front of each gasoline dispensing pump on December 11, 2007; and</p> <p>c. Began conducting monthly inspections of Stage II vapor recovery system on December 11, 2007.</p>

Additional ID No(s): 41649



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES

Assigned
PCW10-Dec-2007
4-Feb-2008

Screening

11-Dec-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Farmersville Texaco, Inc. dba Farmersville Shell
 Reg. Ent. Ref. No. RN102224474
 Facility/Site Region 4-Dallas/Fort Worth

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 35110
 Docket No. 2007-2038-PST-E
 Media Program(s) Petroleum Storage Tank
 Multi-Media
 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 3
 Order Type 1660
 Enf. Coordinator Rajesh Acharya
 EC's Team Enforcement Team 6

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement Subtotals 2, 3, & 7 \$0

Notes No adjustment due to compliance history.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction Subtotal 5 \$300

Before NOV NOV to EDRP/Settlement Offer
 Extraordinary
 Ordinary X
 N/A (mark with x)

Notes The Respondent came into compliance on December 11, 2007.

Total EB Amounts \$114
 Approx. Cost of Compliance \$1,200
 0% Enhancement*
 *Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$2,700

OTHER FACTORS AS JUSTICE MAY REQUIRE

19%

Adjustment \$500

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended adjustment to capture the avoided cost of compliance associated with the violation.

Final Penalty Amount \$3,200

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$3,200

DEFERRAL

20%

Reduction

Adjustment -\$640

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY

\$2,560

Screening Date 11-Dec-2007**Docket No.** 2007-2038-PST-E**PCW****Respondent** Farmersville Texaco, Inc. dba Farmersville Shell

Policy Revision 2 (September 2002)

Case ID No. 35110

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102224474**Media [Statute]** Petroleum Storage Tank**Enf. Coordinator** Rajesh Acharya**Compliance History Worksheet**>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%>> **Compliance History Summary****Compliance History Notes**

No adjustment due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 11-Dec-2007		Docket No. 2007-2038-PST-E		PCW	
Respondent Farmersville Texaco, Inc. dba Farmersville Shell				<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35110				<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN102224474					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Rajesh Acharya					
Violation Number		<input type="text" value="1"/>			
Rule Cite(s)		<input type="text" value="30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health & Safety Code § 382.085(b)"/>			
Violation Description		<input type="text" value="Failed to maintain records at the Station ordinarily manned during business hours, and make them immediately available for review upon request. Specifically, the California Air Resource Board executive order, daily inspection log, Stage II test results, maintenance log, and employee training records were not available for inspection at the time of the investigation."/>			
Base Penalty					<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					<input type="text" value="10%"/>
100% of the rule requirement was not met.					

Adjustment					<input type="text" value="\$9,000"/>
					<input type="text" value="\$1,000"/>

Violation Events

Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="47"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>	<input type="text" value="\$1,000"/>	

One single event is recommended based on documentation of the violation during the October 26, 2007 investigation.

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$3"/>	Violation Final Penalty Total	<input type="text" value="\$1,067"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,067"/>	

Economic Benefit Worksheet**Respondent** Farmersville Texaco, Inc. dba Farmersville Shell**Case ID No.** 35110**Reg. Ent. Reference No.** RN102224474**Media** Petroleum Storage Tank**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	26-Oct-2007	11-Dec-2007	0.1	\$3	n/a	\$3
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$500

TOTAL

\$3

Screening Date 11-Dec-2007

Docket No. 2007-2038-PST-E

PCW

Respondent Farmersville Texaco, Inc. dba Farmersville Shell

Policy Revision 2 (September 2002)

Case ID No. 35110

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102224474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 115.244(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct monthly inspections of the Stage II vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

47 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date of October 26, 2007 to the screening date of December 11, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$109

Violation Final Penalty Total \$1,067

This violation Final Assessed Penalty (adjusted for limits) \$1,067

Economic Benefit Worksheet**Respondent** Farmersville Texaco, Inc. dba Farmersville Shell**Case ID No.** 35110**Reg. Ent. Reference No.** RN102224474**Media** Petroleum Storage Tank**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$500	26-Sep-2007	11-Dec-2007	0.2	\$5	\$104	\$109
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated amount to conduct monthly inspections of the Stage II system. Date Required is one month prior to the investigation date, Final Date is the compliance date.

Approx. Cost of Compliance

\$500

TOTAL

\$109

Screening Date 11-Dec-2007

Docket No. 2007-2038-PST-E

PCW

Respondent Farmersville Texaco, Inc. dba Farmersville Shell

Policy Revision 2 (September 2002)

Case ID No. 35110

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102224474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 115.242(9) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. Specifically, operating instructions were not observed on dispenser Nos. 1, 2, 5, and 6 at the time of the investigation .

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

47 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date of October 26, 2007 to the screening date of December 11, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,067

This violation Final Assessed Penalty (adjusted for limits) \$1,067

Economic Benefit Worksheet**Respondent** Farmersville Texaco, Inc. dba Farmersville Shell**Case ID No.** 35110**Reg. Ent. Reference No.** RN10224474**Media** Petroleum Storage Tank**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$200	26-Oct-2007	11-Dec-2007	0.1	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to post operating instructions on dispensers. Date Required is the investigation date. Final Date is the compliance date.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal			0.0	\$0	\$0	\$0
Personnel			0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.0	\$0	\$0	\$0
Supplies/equipment			0.0	\$0	\$0	\$0
Financial Assurance [2]			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$200

TOTAL

\$1

Compliance History

Customer/Respondent/Owner-Operator:	CN601189319	Farmersville Texaco, Inc.	Classification: AVERAGE	Rating: 2.33
Regulated Entity:	RN102224474	FARMERSVILLE SHELL	Classification: AVERAGE	Site Rating: 2.33
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	41649	
Location:	304 US HIGHWAY 380 E, FARMERSVILLE, TX, 75442	Rating Date: 9/1/2007	Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	December 19, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 19, 2002 to December 19, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rajesh Acharya Phone: (512) 239-0577

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- | | |
|----|---|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
| | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. |
| | N/A |
| C. | Chronic excessive emissions events. |
| | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) |
| | 1 11/26/2007 (599417) |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) |
| F. | Environmental audits. |
| | N/A |
| G. | Type of environmental management systems (EMSs). |
| | N/A |
| H. | Voluntary on-site compliance assessment dates. |
| | N/A |
| I. | Participation in a voluntary pollution reduction program. |
| | N/A |
| J. | Early compliance. |
| | N/A |
| | Sites Outside of Texas |
| | N/A |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
FARMERSVILLE TEXACO, INC. DBA	§	
FARMERSVILLE SHELL	§	
RN102224474	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-2038-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Farmersville Texaco, Inc. dba Farmersville Shell ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 304 United States Highway 380 East in Farmersville, Collin County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 2, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Two Hundred Dollars (\$3,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Forty-Five Dollars (\$145) of the administrative penalty and Six Hundred Forty Dollars (\$640) is deferred contingent upon the Respondent timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Four Hundred Fifteen Dollars (\$2,415) of the administrative penalty shall be payable in 23 monthly payments of One Hundred Five Dollars (\$105) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Began maintaining all Stage II records at the Station on December 11, 2007;
 - b. Posted operation instructions on the front of each gasoline dispensing pump on December 11, 2007; and
 - c. Began conducting monthly inspections of Stage II vapor recovery system on December 11, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to maintain records at the Station ordinarily manned during business hours, and make them immediately available for review upon request, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 26, 2007. Specifically, the California Air Resource Board executive order, daily inspection log, Stage II test results, maintenance log, and employee training records were not available for inspection at the time of the investigation.
2. Failed to conduct monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 26, 2007.
3. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 26, 2007. Specifically, operating instructions were not observed on dispenser Nos. 1, 2, 5, and 6 at the time of investigation.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Farmersville Texaco, Inc. dba Farmersville Shell, Docket No. 2007-2038-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

TCEQ ENFORCEMENT

Fax: 512-239-0134

Apr 24 2008

Farmersville Texaco, Inc. dba Farmersville Shell

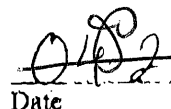
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director
Date 5/5/2008


I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature



Date

04-22-08

Name (Printed or typed)

Authorized Representative of

Farmersville Texaco, Inc. dba Farmersville Shell

Title

PRESIDENT

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

